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MARIPOLDATA Ocean Seminar

Capacity Building and the BBNJ Agreement

19th May, 2021

Guest Speaker: Dr. Harriet Harden-Davies

Dr. Harriet Harden-Davies is an Ocean Nexus postdoctoral research fellow at the Australian National Centre for Ocean Resources and Security, University of Wollongong. Harriet's research interests span ocean science, stewardship and sustainability - the development of a new United Nations treaty for marine biodiversity beyond national jurisdiction is a key focus of her research and policy engagement work. She is Guest Investigator at the Marine Policy Centre of the Woods Hole Oceanographic Institute, co-lead of the Deep Ocean Stewardship Initiative, Edinburgh Ocean Leader, and member of the UNESCO-IOC Group of Experts on Capacity Development and UNESCO-IOC Informal Working Group of Early Career Ocean Professionals. Her previous roles include Visiting Science Diplomacy Fellow at Tufts University, Consultant to the UN Decade of Ocean Science for Sustainable Development, and Manager of Policy and Projects at the Australian Academy of Technological Sciences and Engineering. She has a PhD in ocean law and policy from University of Wollongong, Australia, and a BSc(Hons) in marine biology and oceanography from the University of Southampton, UK. Harriet is a keen scuba diver, sailor and surfer.

We welcome **Dr. Harriet Harden-Davies** to the MARIPOLDATA Ocean Seminar, who reflects on the topic of capacity building in the development of a new treaty for marine biodiversity beyond national jurisdiction.

Reading Material for the Session:

Harden-Davies and Snelgrove (2020). "Science Collaboration for Capacity Building: Advancing Technology Transfer Through a Treaty for Biodiversity Beyond National Jurisdiction." *Frontiers in Marine Science* 7 (2020): *Frontiers in Marine Science*, 2020-02-28, Vol.7. Web.

The summary for policy-makers of the recent **Alliance of Small Island States (AOSIS) report** on Capacity Challenges and Options relating to Marine Genetic Resources of Areas Beyond National Jurisdiction.

<https://www.aosis.org/reports/international-framework-for-laws-governing-deep-sea-depends-on-the-technological-readiness-of-small-island-states/>

Hoel, A. H. (2021). "Chapter 11 Capacity Building in Marine Science-Added Value of the BBNJ?". In *Marine Biodiversity of Areas beyond National Jurisdiction*. Leiden, The Netherlands: Brill | Nijhoff. doi: https://doi.org/uaccess.univie.ac.at/10.1163/9789004422438_012

The monthly **MARIPOLDATA Ocean Seminar Series** offer a virtual space to get information and engage in exchanges on ocean governance issues, through presentations by international experts from academia, governments, international organisations and civil society.

To register: Please contact ina.tessnow-vonwyssocki@univie.ac.at, indicating your name and institution.

More information: [MARIPOLDATA Ocean Seminar Series](#)



1. General Context

- International negotiations for a new legally binding agreement for the conservation and sustainable use of marine biodiversity beyond national jurisdiction are ongoing
- One main pillar of the future agreement is Capacity Building and Transfer of Marine Technology (CB&TT)
- Global inequalities exist among countries to explore, exploit and protect the marine environment
- CB&TT is crucial for the implementation of the BBNJ Agreement

2. An Introduction to CB&TT

Readings:

Harden-Davies and Snelgrove (2020). "Science Collaboration for Capacity Building: Advancing Technology Transfer Through a Treaty for Biodiversity Beyond National Jurisdiction." *Frontiers in Marine Science* 7 (2020): *Frontiers in Marine Science*, 2020-02-28, Vol.7. Web.

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The UN negotiations for a new legally binding agreement under the UN Convention of the Law of the Sea are currently still ongoing. This new instrument seeks to set regulations for the conservation and sustainable use of marine biodiversity beyond national jurisdiction. One main pillar of the new agreement is capacity building and the transfer of marine technology.

Why is this important?

If we talk about marine scientific research in areas beyond national jurisdiction, we refer to areas that are further than 200 nautical miles away from the shore- which is more than 370 km- and areas that are several thousands of meters below the surface. So you can imagine, that this research requires advanced technology and is quite costly to undertake.

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As a result, currently marine scientific research is mainly done by countries from the Global North who can afford such research activities and which leads to a global imbalance of research output and also of access to marine resources.

Moreover, marine scientific research and technology also define the ability to conserve the marine environment – which is dependent on the knowledge and capacities to protect the ocean. And this regards areas *beyond* national jurisdiction but also areas *within* national jurisdiction- closer to shore.

Capacity building and the transfer of marine technology is crucial for the implementation of the BBNJ agreement, but also guards questions of equality among nations.

This is just the start of the discussions and there still needs to be agreement on various points. Some of these issues include e.g:

- Whether capacity building and the transfer of marine technology should be voluntary or obligatory;
- What counts as capacity building and technology transfer;
- Collecting best practices;
- Identifying the needs of developing countries for capacity building and the transfer of marine technology;
- How these needs can be known and addressed

In preparation for this session, we have sent a book chapter from a recent book on Areas beyond national jurisdiction that was published this year, which gives an overview of the existing global framework for capacity building and technology transfer and reflects on lessons learned and implications for the BBNJ agreement. While a framework under UNCLOS exists for CB&TT, the author identifies room for improvement. The Decade of Ocean Science for Sustainable Development is identified as an opportunity for strengthening capacity building in marine science and technology.

Further readings on this topic provided in the framework of the MARIPOLDATA Ocean Seminar Series are: the summary for policy makers of the report of the Alliance of Small island states AOSIS, which focuses on the Capacity Challenges and Options related to Marine Genetic Resources and an article by Harden-Davies & Snelgrove on capacity building in BBNJ: Science Collaboration for Capacity Building: Advancing Technology Transfer Through a Treaty for Biodiversity Beyond National Jurisdiction.

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3. Capacity Building and the BBNJ Agreement: Presentation and Discussion

Presentation by Dr. Harriet Harden-Davies and Questions and discussion within the group

What falls under Capacity Building and Transfer of Marine Technology?

There is no official and agreed-on definition of capacity building, however a definition of the transfer of marine technology does exist under the International Oceanographic Commission (IOC)¹. It can therefore include a variety of activities, resources and cooperation, such as access to data, the sharing of knowledge, the provision of trainings and education programs, inclusion into research teams and laboratories on a long-term cooperation basis, among others.

Challenges and how the BBNJ Agreement can address them

The main challenges to CB&TT identified were how to share information and the role of the Scientific and Technical Body, which the BBNJ agreement can provide for. The Role of the BBNJ Agreement will also be to provide the opportunity for interaction among regions; to gather lessons learned.

Currently, specifications and implementation of Art. 143 of UNCLOS, which refers to the need for marine scientific research to be undertaken for peaceful purposes is not discussed in great detail within the BBNJ discussions. The question of “common interest” was touched upon regarding discussions on the common heritage of humankind in BBNJ discussions and BBNJ literature goes beyond that, also including Rights of Nature. Who would define “common interest” and what it means is now particularly interesting and timely relevant in light of the [UN Decade of Ocean Science for Sustainable Development](#). There is an opportunity to design science together, valuing different knowledge systems. As people experience the ocean differently, there are also distinct ways of thinking about the ocean and various knowledge systems what the ocean means in itself and for humans. Generating knowledge, taking into account these different approaches, will be a more effective and culturally sensitive way of thinking about the ocean and designing governance options.

¹ See IOC criteria and guidelines on the transfer of marine technology here:

<https://unesdoc.unesco.org/ark:/48223/pf0000139193>

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The question is also how to avoid duplication and identify who would be responsible for providing capacity building. Here, a global Plan/Strategy could serve as a proactive planning tool to meet the needs.

What is needed and who should provide CB&TT?

Needs assessments are a valuable tool in identifying needs that can vary among regions and countries when it comes to capacity building. However, here it is necessary to look at who is asked for providing such assessments and by which means. If, for instance, one particular ministry is contacted by e-mail, this might not reach the responsible and/or representative person to judge the needs of the whole country/region and carries the risk to not ensure comprehensive and timely reporting.

There are various dimensions of how to think about a financial mechanism for the BBNJ agreement, including mandatory and voluntary contributions. Regarding where funding can come from it is useful to look at examples of existing financing, e.g. the Global Environmental Facility is already financing large-scale marine ecosystem projects and to suit the needs of the developing countries concerned.

How to provide CB&TT?

Besides questions about who would provide funds (private and public sources; international institutions), issues include also reflection on the portfolio of the funder/ provider of research projects, as well as how effectiveness of financing projects would be evaluated or measured.

Apart from monetary considerations, there also needs to be put thought into how CB&TT can be provided in non-monetary terms. In case of partnerships, these will need to be long-term and equitable, with developing countries being “in the driver seat of the partnership”, with the ability to shape the research project from the start and not being left behind once the cruise ends.

While the envisioned Clearing House Mechanism of the BBNJ Agreement constitutes an important tool, it will need to be “more than a website” and include the possibility for partnerships.

Private vs. Public Science and Interests

Funders’ portfolios and research projects providers shape the kind of data that is being collected and might focus on a particular field of interest by the donor, rather than the need of the region.

As regards the access to marine genetic resources, which guard potential future economic benefits when turned into products, public and private research is not always easy to differentiate. What could start as public research could transform over time, or research results could be further used by private companies decades after initial research was undertaken.

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We thank Dr. Harriet Harden-Davies for the presentation and discussion on capacity building and the transfer of marine technology as regards the current BBNJ negotiations.

The MARIPOLDATA Team is looking forward to upcoming Sessions in the second half of 2021! We will soon publish the program with topics and speakers.

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Ina Tessnow- von Wysocki, May 2021